APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/862,356	05/22/2001	Steve Tendon	ALBIHN W 3.0-410	9895

7590 12/21/2005	**EXAMINER**
LERNER, DAVID, LITTENBERG, KRUMHOLZ & MENTLIK, LLP	LASTRA, DANIEL
600 South Avenue West	

ART UNIT	PAPER NUMBER
3622	

DATE MAILED: 12/21/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

	Application No.	Applicant(s)
Office Action Summary	09/862,356	TENDON ET AL.
	Examiner	Art Unit
	DANIEL LASTRA	3622

-- *The MAILING DATE of this communication appears on the cover sheet with the correspondence address* --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
  Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on <u>18 January 2002</u>.

2a)☐ This action is **FINAL**.   2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) <u>1-47</u> is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) <u>1-47</u> is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a)☐ All   b)☐ Some * c)☐ None of:

      1.☐ Certified copies of the priority documents have been received.

      2.☐ Certified copies of the priority documents have been received in Application No. _____.

      3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1)☒ Notice of References Cited (PTO-892)
2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3)☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
    Paper No(s)/Mail Date <u>02/05/02</u>.

4)☐ Interview Summary (PTO-413)
    Paper No(s)/Mail Date. _____ .
5)☐ Notice of Informal Patent Application (PTO-152)
6)☐ Other: _____.

U.S. Patent and Trademark Office

PTOL-326 (Rev. 7-05)   Office Action Summary   Part of Paper No./Mail Date 20051126

DETAILED ACTION

1.   Claims 1-47 have been examined. Application 09/862,356 (Computer system and

method for the establishment of a virtual marketplace of promotional values) has a filing date

05/22/2001.

Claim Objections

2.   Claim 15 is objected to because of the following informalities: Claim 15 recites in

page 106 line 5 "funciontally" where it should recites "functionally".   Appropriate

correction is required.

Claim Rejections - 35 USC § 102

3.   The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that

form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1-47 are rejected under 35 U.S.C. 102(e) as being anticipated by Boyd

(US 2004/0193489).

As per claims 1, 16 and 29, <u>Boyd</u> teaches:

A distributed computer system for the establishment of a marketplace for

branded promotional values issued by at least two businesses and being awarded to at

least two consumers, said distributed computer system comprising:

a persistent storage node arranged for storing data related to said promotional

values, said at least two businesses and said at least two consumers (see paragraphs

102-111);

an application server node for managing data stored by said persistent storage

node, for executing transaction processing regarding said data, and for interfacing with

said at least two businesses and said at least two consumers (see paragraphs 102-

111);

said distributed computer system being adapted for communicating with said at

least two businesses and for communicating with mobile communication devices

associated with said at least two consumers (see paragraph 91 "client computer

stations are personal computers with modems or network connections);

said distributed computer system being arranged to allow transactions involving

said promotional values between said at least two businesses and said at least two

consumers, thereby providing said marketplace between said at least two businesses,

and between said at least two consumers, respectively (see paragraphs 403-406).

As per claims 2 and 17, Boyd teaches:

A distributed computer system as claimed in claim 1, wherein said persistent

storage node is constituted by a database server which comprises the following

databases:

a mobile device database storing identification information and data related to

mobile communication devices associated with said at least two consumers (see

paragraph 414 "client computers are personal computers with modem or network connections);

a business database storing data related to said at least two businesses and a transaction database storing data related to said transactions involving said promotional values (see paragraphs 403-406).

As per claim 3, Boyd teaches:

A distributed computer system as claimed in claim 2, wherein said database server further comprises a promotions database storing data related to promotions performed by said businesses (see paragraphs 398-399).

As per claim 4, Boyd teaches:

A distributed computer system as claimed in claim 1, wherein said application server node provides a set of core services according to which coordination and processing of said transactions, and interfacing with said persistent storage node are carried out (see paragraphs 398-399).

As per claims 5, 18 and 30, Boyd teaches:

A distributed computer system as claimed in any one of the preceding claims and being arranged in order to manage said promotional values in terms of non-zero amounts of branded M-points, where an M-point is invariably associated with the issueing business, and attributed by a point value freely determined by the corresponding issuing business (see paragraphs 403-406; 125).

As per claims 6, 19 and 43, Boyd teaches:

A distributed computer system as claimed in claim 5, and being arranged for core services involving at least one of the following transactions:

an ownership transaction in which an amount of M Points is transferred (1) from the corresponding issuing business to one individual consumer's mobile communication device; or (2) from one individual consumer's mobile communication device to a second and distinct individual consumer's mobile communication device; or (3) from an individual consumer's mobile communication device back to the original issuing business (see paragraphs 403-406),

a redemption transaction in which a consumer redeems an amount of M-points, and a trade transaction in which two ownership transactions are carried out concurrently (see paragraph 125).

As per claims 7 and 21, Boyd teaches:

A distributed computer system as claimed in claim 6, wherein said ownership transaction is constituted by either a marcom transaction, during which a marketing communication message is transmitted to said mobile communication device, or a withdraw transaction, during which an amount of M-points is returned to the corresponding said issuing business (see paragraph 216).

As per claims 8 and 23, Boyd teaches:

A distributed computer system as claimed in claim 7, wherein said marcom transaction is constituted by either a transfer transaction during which one or more M points are transferred from an account of a first consumer to an account of a further consumer, or an award transaction during which one or more M points are awarded by

a business to a mobile communication device being associated with a consumer (see

paragraphs 403-406).

As per claims 9, 20, 22 and 44, Boyd teaches:

A distributed computer system as claimed in claim 6, wherein said trade

transaction is constituted by either a morph transaction during which a consumer is

allowed to convert a non-zero amount of M-points relating to one business into a non-

zero amount of M-points relating to a second and distinct business, and whereby the

conversion ratio between the two amounts is determined automatically by said

application server node depending on data from said businesses, or an exchange

transaction during which a first consumer transfers a non-zero amount of M-points

relating to a first business to a second and distinct consumer, said second consumer

returning to said first consumer a non-zero amount of M-points relating to a second and

distinct business, whereby both amounts are freely determined by respective

relinquishing consumer (see paragraphs 403-406).

As per claim 10, Boyd teaches:

A distributed computer system as claimed in claim 5, and being arranged in order

to handle promotions undertaken by businesses, and whereby each business can freely

determine the start and stop time of its said promotions (see paragraph 176).

As per claims 11, 24, 31 and 42, Boyd teaches:

A distributed computer system as claimed in claim 5, and being arranged for

managing different types of said M points for each involved said businesses, in the form

of a single brand point which is directly associated with the issuing business, and

attributed by a value multiplier freely determined by the corresponding issuing business (see paragraph 406).

As per claims 12, 25 and 32, Boyd teaches:

A distributed computer system as claimed in claim 5, further being arranged for managing said M-points in the form of a one or more of promotional points each of which, in addition to being associated with the issuing business, is also associated to a specific promotion undertaken by the issuing business, and attributed by a distinct value multiplier freely determined by the corresponding issuing business (see paragraph 406).

As per claims 13, 26 and 33, Boyd teaches:

A distributed computer system as claimed in claim 5, and being arranged for managing each of said M-points in a manner which relates only to each individual mobile communication device, and not to a physical person owning said mobile communication device (see paragraph 208 "Yahoo ID").

As per claims 14 and 27, Boyd teaches:

A distributed computer system as claimed in claim 5, wherein said system is arranged to manage said amounts of M-points with at least one account related to each mobile communication device and to each kind of point, and at least one account related to each business and each kind of point (see paragraphs 403-406).

As per claims 15 and 28, Boyd teaches:

A distributed computer system as claimed in any of the preceding claims, comprising a web server adapted for communicating with said mobile communication devices, which in turn are constituted by Internet-enabled mobile devices such as

cellular mobile telephones, personal digital assistants, personal computers, telematics equipped automobiles and other so-called "smart vehicles," or yet other functionality equivalent devices (see paragraph 414 "client computer stations are personal computers").

As per claim 34, Boyd teaches:

A method as claimed in claim 33, wherein the awarding of said M-points to said mobile communication device comprises transmission of a marketing communication message for presentation to said consumer via said mobile communication device (see paragraph 216).

As per claim 35, Boyd teaches:

A method as claimed in claim 34, wherein said transmission of a marketing communication message is invariably actuated as a result of said consumer participating in at least one predetermined point-earning opportunity and any thereof ensuing M-point transaction (see paragraph 216).

As per claim 36, Boyd teaches:

A method as claimed in claim 30, wherein each consumer's interest level in promotional offerings from each one of said at least two businesses can be inferred and determined indirectly by their M-point transaction activity (see paragraph 216).

As per claim 37, Boyd teaches:

A method as claimed in claim 36, wherein different marketing communication messages are transmitted to different mobile communication devices depending consumer's said inferred interest level (see paragraph 216).

As per claim 38, <u>Boyd</u> teaches:

A method as claimed in claim 32, and being arranged in order to handle promotions undertaken by businesses, and whereby each business can freely determine the start and stop time of its said promotions (see paragraph 176).

As per claim 39, <u>Boyd</u> teaches:

A method as claimed in claim 38, wherein said promotion is associated with a start point of time and a stop point of time, which together define the time period during which the promotional points associated with said promotion can be subject to any kind of M-point transactions (see paragraph 176).

As per claim 40, <u>Boyd</u> teaches:

A method as claimed in claim 39, wherein said promotional point can be redeemed between said start point of time and said stop point of time, but cannot be redeemed after the expiration of said stop point of time; however after the expiration of the promotional period said promotional point can yet be subject to any kind of M-point transaction except a redemption transaction (see paragraph 176).

As per claim 41, <u>Boyd</u> teaches:

A method as claimed in claim 40, wherein expired 35 promotional M-points can be reinstantiated by the issuing business by re-allowing redemption transactions thereof (see paragraph 176).

As per claim 45, <u>Boyd</u> teaches:

A method as claimed in claim 44, wherein said morph transaction allows co-/cross-marketing between different businesses, said transaction being mediated by a

service provider without any direct relationship between said businesses (see paragraphs 161, 162, 403-406).

As per claim 46, Boyd teaches:

A method as claimed in claim 45, wherein all compensations and charges between said businesses are handled retroactively as a percent reduction or increase on the ordinary redemption commission due to the service provider (see paragraph 398).

As per claim 47, Boyd teaches:

A method as claimed in any one of claims 30-46, wherein said M-points can be allowed to be redeemed by said consumer in exchange for said promotional values (see paragraphs 125-134).

Conclusion

4.   The prior art made of record and not relied upon is considered pertinent to applicant's disclosure:

- Lee teaches a points trading system using mobile device (see paragraph 47).
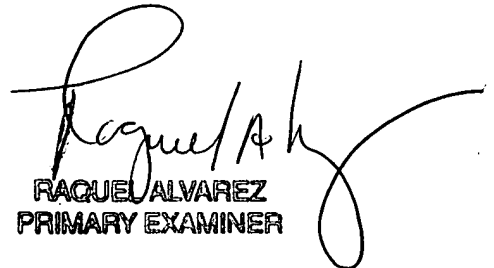
- Postrel teaches a system for trading points.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to DANIEL LASTRA whose telephone number is 571-272-6720 and fax 571-273-6720. The examiner can normally be reached on 9:30-6:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, ERIC W. STAMBER can be reached on 571-272-6724. The official Fax number is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Daniel Lastra
December 3, 2005

RAQUEL ALVAREZ
PRIMARY EXAMINER